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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2016-0051, Sequence No. 2]

**Federal Acquisition Regulation; Federal Acquisition Circular
2005-88; Introduction**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005-88. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005-88 and the specific FAR case number. For information pertaining to status or publication

schedules, contact the Regulatory Secretariat Division at 202-501-4755.

Rules Listed in FAC 2005-88

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
I	High Global Warming Potential Hydrofluorocarbons	2014-026	Gray
II	Simplified Acquisition Threshold for Overseas Acquisitions in Support of Humanitarian or Peacekeeping Operations	2015-020	Francis
III	Basic Safeguarding of Contractor Information Systems	2011-020	Davis
IV	Improvement in Design-Build Construction Process	2015-018	Glover
V	Technical Amendments		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-88 amends the FAR as follows:

Item I—High Global Warming Potential Hydrofluorocarbons (FAR Case 2014-026)

This final rule implements Executive branch policy in the President's Climate Action Plan to procure, when feasible, alternatives to high global warming potential—hydrofluorocarbons (HFCs). The rule also requires contractors to report annually the amount of HFCs contained

in equipment delivered to the Government or added or taken out of Government equipment under service contracts. This will allow agencies to better meet the greenhouse gas emission reduction goals and reporting requirements of the Executive Order 13693 on Planning for Sustainability in the Next Decade. This rule applies to small entities because about three-quarters of the affected contractors are small businesses and precluding them would undermine the overall intent of this policy. However, to minimize the impact this rule could have on all businesses, especially small businesses, this rule only requires tracking and reporting on equipment that normally contain 50 or more pounds of HFCs. In addition, this rule does not impose a labeling requirement for products that contain or are manufactured with HFCs, unlike the labeling requirement that is required by statute for ozone-depleting substances.

**Item II—Simplified Acquisition Threshold for Overseas
Acquisitions in Support of Humanitarian or Peacekeeping
Operations (FAR Case 2015-020)**

This final rule amends the FAR to implement 41 U.S.C. 153, which establishes a higher simplified acquisition threshold (SAT) for overseas acquisitions in support of humanitarian or peacekeeping operations. When FAR Case 2003-022 was published as a rule in 2004, the definition for SAT at FAR 2.101 was changed, but the drafters of the rule

also inadvertently deleted the reference to overseas humanitarian or peacekeeping missions and the requisite doubling of the SAT in those circumstances. This rule reinstates the increased SAT for overseas acquisitions for peacekeeping or humanitarian operations. Accordingly, this rule provides contracting officers with more flexibility when contracting in support of overseas humanitarian or peacekeeping operations. This final rule does not place any new requirements on small entities.

Item III—Basic Safeguarding of Contractor Information Systems (FAR Case 2011-020)

This final rule amends the FAR to add a new FAR subpart 4.19 and contract clause 52.204-21 for the basic safeguarding of covered contractor information systems, i.e., that process, store, or transmit Federal contract information. The clause does not relieve the contractor of any other specific safeguarding requirement specified by Federal agencies and departments as it relates to covered contractor information systems generally or other Federal requirements for safeguarding controlled unclassified information (CUI) as established by Executive Order 13556. Systems that contain classified information, or CUI such as personally identifiable information, require more than the basic level of protection. This rule will not have a

significant economic impact on contractors (including small business concerns) or the Government.

Item IV—Improvement in Design-Build Construction Process

(FAR Case 2015-018)

This final rule revises the FAR to implement section 814 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015. When a two-phase design-build construction acquisition is valued at greater than \$4 million, section 814 requires the head of the contracting activity to approve a contracting officer determination to select more than five offerors to submit phase-two proposals. The approval level is delegable no lower than the senior contracting official within the contracting activity. This rule change does not place any new requirements on small entities.

Item V—Technical Amendments

Editorial changes are made at FAR 1.106.

Dated: May 5, 2016.

William Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005-88 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-88 is effective [***insert date of publication in the Federal Register***] except for items I, II, III, and IV, which are effective [***insert date 30 days after publication in the Federal Register***].

Dated: May 4, 2016.

Claire M. Grady,
Director, Defense Procurement
and Acquisition Policy

Dated: May 5, 2016.

Jeffrey A. Koses,
Senior Procurement Executive/Deputy CAO,
Office of Acquisition Policy,
U.S. General Services Administration.

Dated: April 28, 2016.

William P. McNally,
Assistant Administrator, Office of Procurement
National Aeronautics and Space Administration.

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